

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JULIE WAGNER,

Plaintiff,

VS.

EMBRACE,

Defendant.

8:06CV707

ORDER

This matter is before the court *sua sponte*, pursuant to NECivR 41.1, which states in pertinent part: “The court may at any time dismiss an action for lack of prosecution when it appears it is not being prosecuted with reasonable diligence.” The complaint was filed on November 13, 2006. **See** Filing No. 1. On March 14, 2007, the court entered an order requiring the plaintiff to show cause why the complaint should not be dismissed for failure to effect timely service. **See** Filing No. 5. The plaintiff responded by seeking an extension of time to effect service of process, stating the plaintiff was having difficulty serving the defendant, although a professional process server was employed. **See** Filing No. 7. The court granted an extension until June 1, 2007, to effect service pursuant to Fed. R. Civ. P. 4m. **See** Filing No. 8. On May 21, 2007, the court granted the plaintiff leave to effect service by alternative means. **See** Filing No. 10. On June 1, 2007, the plaintiff filed notice of executing service by certified mail on May 29, 2007. **See** Filing No. 13. The defendant has not filed an answer or otherwise made an appearance in this matter. It remains the plaintiff’s duty to go forward in prosecuting the case by, for example, filing a motion for the Clerk’s Entry of Default pursuant to Fed. R. Civ. P. 55(a) and NECivR 55.1(a) against a defendant who has been served but have not filed a timely answer. Upon consideration,

IT IS ORDERED:

The plaintiff shall file a motion for Clerk's Entry of Default or show cause why this case should not be dismissed for failure to prosecute the defendant, on or before the close of business **on August 13, 2007**.

Dated this 30th day of July, 2007.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge